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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture
Fifty-fourth session

Summary record of the first part (public)* of the 1298th meeting
Held at the Palais Wilson, Geneva, on Friday, 24 April 2015, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1298/Add.1.

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The meeting was called to order at 10.05 a.m.

Meeting with non-governmental organizations

1. **The Chairperson** said the exchange of views between the Committee and non-governmental organizations (NGOs), which had become a tradition over the years, had proved valuable in further realizing the goals of the Convention. Contributions from civil society organizations based in Geneva and in many other parts of the world enriched the Committee's understanding of the situation in different countries and enabled it to obtain data and analysis from alternative sources when engaged in interactive dialogue with States parties. The information played a role in the reporting system, individual complaints, inquiries and general comments and was useful to both the Committee and States parties. NGOs visited gaols, implemented training and alerted authorities to situations that violated the Convention. Recent NGO activities included coordination of an expert forum on follow-up procedures by the World Organization against Torture (OMCT) in February 2015 and a meeting on rehabilitation organized by the International Rehabilitation Council for Torture Victims (IRCT) in April 2015. The Association for the Prevention of Torture (APT) had played an important role in the Convention against Torture Initiative.

2. NGOs had been invited to participate in a dialogue at the twenty-seventh Meeting of chairpersons of human rights treaty bodies to be held in June 2015 at San José, Costa Rica; it would be an opportunity for all organizations, including those based outside the Western Hemisphere, to interact with the committees and to develop further connections.

3. The Committee set great store by the removal of every obstacle to the contribution of civil society to the full implementation of the obligations laid down in the Convention. Accordingly, it had developed a system of rapporteurs on reprisals and it encouraged all treaty bodies to exercise zero tolerance in respect of reprisals against human rights defenders.

4. The Committee valued the expertise provided by NGOs, including their contributions to general comments Nos. 2 and 3, but took full responsibility for its own decisions, which were the result of the deliberations of its independent members, acting on the basis of their own knowledge and conscience.

5. **Ms. Gaer** welcomed the opportunity to learn the views of NGOs and supported the comments of the Chairperson on the value of NGO participation in the Meeting of chairpersons of human rights treaty bodies. It was an opportunity that had been missed at the twenty-fourth Meeting of chairpersons in Addis Ababa in 2012, which had been attended by only two regional NGOs.

6. **Ms. Pradhan-Malla** commended the contribution made by NGOs in providing information and evidence from victims as well as through study and research. The Committee was empowered and encouraged by the presence of NGOs in the constructive dialogue process. She would be interested to learn what action NGOs took following receipt of the concluding observations and upon ratification of the Convention by a State. She asked what challenges they faced in dealing with the Convention and if they had put in place any mechanisms for their own protection.

7. **Mr. Modvig** warmly welcomed participants from NGOs and thanked them for supporting the work of the Committee through factual contribution and corrections to State party reporting and through their input into the working methods of the Committee. He expressed appreciation for the meeting on strengthening of follow-up procedures coordinated by OMCT. Non-governmental bodies might wish to devise an initiative of their own to strengthen their contribution to the eradication of torture in parallel with the Convention against Torture Initiative which had been set up by States parties in order to promote implementation of the Convention.

8. **Mr. Gaye** joined previous speakers in expressing his appreciation for the contribution made by NGOs to the work of the Committee. He was nevertheless concerned that NGOs based in Europe and North America were more active at the international level than the so-called "local" organizations in other parts of the world. The effectiveness of NGOs in West Africa in combating torture and their ability to participate in meetings in Geneva would be facilitated by increased access to funds. He would be grateful to learn more about the cooperation assistance offered by the NGOs present to their local counterparts.

9. **Ms. Benninger-Budel** (World Organization against Torture (OMCT)) expressed appreciation for the Committee's work and for its fruitful dialogue with civil society organizations. OMCT continued to coordinate the work of civil society organizations, organizing meetings with them, striving to ensure that alternative reports were submitted for each country under review and facilitating their participation at Committee meetings.

10. Her organization supported civil society as an important constituency for implementation and change, disseminating an e-bulletin after each Committee session and setting up a blog dedicated to the Committee's work. At the request of NGOs, public sessions of the Committee were now webcast and OMCT facilitated domestic web-screenings of the meetings relating to the State party concerned.

11. Follow-up to concluding observations was a key element for effective implementation of recommendations but one that did not always receive the full attention of States or civil society organizations; to remedy that situation, OMCT had arranged an expert forum on follow-up procedure in February 2015, attended by members of the Committee and representatives of civil society organizations. Discussions at the forum had focused on how to increase the response rate to the follow-up procedure; how to assess State compliance; how to increase civil society involvement in the procedure; how to make follow-up recommendations more effective; and how to translate recommendations into domestic legal and policy reform.

12. She welcomed the Committee's decision to review Guinea as a non-reporting State in 2014 and to send Cabo Verde and Seychelles a specific reminder to submit their initial reports; she encouraged it to examine non-reporting States regularly and systematically.

13. She invited the Committee to produce a new general comment on the practical importance of the principle of non-refoulement given that existing general comments did not address the challenges of new immigration control and counter-terrorism measures. In addition, the current interpretation of article 3 of the Convention was problematic and contested and, while the jurisprudence of the Committee might suggest otherwise, non-refoulement was an increasingly universal problem and not one that only impacted Western States. A written paper on the issue had been submitted to the secretariat.

14. **Ms. Holmlund** (Amnesty International) requested the Committee to consider hosting a videoconference for national NGOs as a means of assisting their participation in meetings in Geneva and encouraging them to stay engaged for follow-up and implementation of concluding observations. With respect to the question raised by Ms. Pradhan-Malla, Amnesty International reminded NGOs of their role in follow-up to concluding observations and supported their activities in-country; it was also engaged in direct advocacy with governments in order to reinforce the Committee's recommendations.

15. **Ms. Osman** (Alkarama Foundation) asked the Committee to clarify its interpretation of the confidential nature of the inquiry procedure set out in article 20 and whether it would be possible for the source to be informed that an inquiry had been initiated. As to the individual complaint mechanism, she requested that the Committee should review, as a matter of priority, cases of individuals detained pending extradition, since the duration of their detention might depend on how long the Committee took to reach a decision.

16. In response to the issue raised by Ms. Pradhan-Malla, her organization tried to disseminate the recommendations of the Committee at the local level in order to ensure their use by human rights defenders and NGOs in lobbying governments and in other human rights activities.

17. **Ms. McEvoy** (International Service for Human Rights (ISHR)), referring to the issue of reprisals, welcomed the appointment of a focal point and the action taken to send communications to States on allegations concerning them. She asked whether the focal point on reprisals had been able to share experiences with other focal points and whether it had encouraged the founding of focal points where they did not exist.

18. **Ms. Lardy** (Association for the Prevention of Torture (APT)) said that her association had recently been approached by a national preventive mechanism on how it should engage with the Committee. It would be helpful if such information was displayed on the Committee's website since it did not refer to mechanisms that were not part of national human rights institutions.

19. She suggested that a discussion with NGOs in the following year could be based around the themes of any new general comments.

20. **Ms. Jourdan** (Association of World Citizens (AWC)) drew attention to the difficulties of persons who were required to appear before the authorities in the countries in which they had requested asylum. Despite assurances to the contrary, they were frequently assigned interpreters whose family members supported factions opposed to the victims in their country of origin. Some asylum seekers were the victims of extreme forms of torture which were committed in post-conflict situations in Africa: military commanders operating in refugee camps had settled political scores by giving former soldiers the choice of losing their life or losing a leg. The victims had been amputated in such a way that it was not possible to fit prosthesis products in Africa and, upon arrival in the country in which they applied for asylum in Europe, they were often denied the more expensive treatments that would have enabled them to cope better with the specific pain of amputation. In addition, despite their medical problems, victims were often required to travel lengthy distances to appear before the authorities and their low-cost treatment meant that bleeding and intolerable pain were still experienced several years after the amputation had occurred.

21. Her organization sought to preserve the dignity of such victims and to protect them from the adverse effects of travel which could set back their recovery by many months. Her experience was limited to cases within Europe but she believed that the problem was more widespread; it might perhaps be alleviated by creating links between the Committee and national committees against torture.

22. **Ms. Belmir** said the work of NGOs, including awareness-raising workshops and dissemination of information, was of great value. She asked how organizations adapted their approach when attempting to reach women, children, migrants and other vulnerable populations, including those who could not read or write.

23. **Mr. Tugushi** recognized the valuable contribution of NGOs to the work of the Committee: the information they provided frequently enabled the country rapporteurs to conduct a more thorough review of situations in-country. He asked whether civil society organizations had any priorities in respect of the articles on which the Committee should focus in its forthcoming general comments.

24. The Committee engaged in extensive dialogue with national human rights institutions but he considered in-depth contact with the national preventive mechanisms to fall within the mandate of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Concerning focal points, the Committee worked closely with the Subcommittee and other bodies on the issue of reprisals.

25. **Mr. Bruni** urged all NGOs to submit any relevant material linked to the consideration of State party reports as soon as it became available so as to enable the Committee to study and, where appropriate, translate the information. In regard to article 20 of the Convention, he said that the Committee's rules of procedure prevented it from sharing information with NGOs during the inquiry process. While the Committee was unable to inform NGOs of the launching of an inquiry, it worked closely with them on other issues. Concerning the individual complaint mechanism, he explained that the Committee prioritized cases involving detainees at immediate risk of torture. In cases involving persons detained pending extradition, the Committee requested that States parties adopt interim measures to ensure that no prejudicial decisions could be taken against the individuals concerned before their cases had been considered by the Committee.

26. **Ms. Gaer** said that around 25–30 per cent of States parties failed to respond to the Committee's concluding observations. The vast majority were developing countries. Around 15 out of the 19 States parties that had not reported for 10 years or more were African countries, which suggested that more attention should be paid to enhancing reporting capacity in that region. One solution could be to reinvest the cost savings from the treaty body strengthening process into capacity-building initiatives. As to the issue of outdated lists of issues prior to reporting, she wondered whether the situation could be improved through the establishment by the Committee and NGOs of a systematic procedure for updating information.

27. **Mr. Zhang** said that the timely submission of NGO alternative reports was imperative to the success of the Committee's work. He also stressed the importance of holding regular meetings between the Committee and NGOs to exchange information and best practices.

28. **Ms. Pradhan-Malla** asked what efforts had been made to involve local NGOs in the preparation of alternative reports. She also wished to know whether NGOs had comments on the Committee's draft reporting guidelines for articles 20 and 22 of the Convention and whether they would consider representing a greater number of victims in the individual communications procedure in future.

29. **The Chairperson** said he would welcome suggestions of issues or articles that warranted the adoption of a general comment as well as recommendations on the best use of technology to facilitate cooperation between the Committee and NGOs. In regard to reprisals, he stressed that the Committee had been working in partnership with other treaty bodies to address the matter in a coherent and effective manner.

30. **Mr. Grassy** (International Federation of Action by Christians for the Abolition of Torture (FIACAT)) said that his organization would do its utmost to submit alternative reports to the Committee on a timely basis to allow for translation where necessary. He welcomed the opportunity to increase the number of meetings held between the Committee and NGOs and suggested that more events should be organized during the intersessional period. He also proposed that the Committee should strengthen its cooperation and collaboration with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and other international and regional bodies dealing with the issue of torture. As to making the best use of technology to facilitate cooperation between the Committee and civil society, he pointed out that many NGOs did not have sufficient resources to organize videoconferences with the Committee.

31. **Ms. Martínez** (International Disability Alliance (IDA)) said that cases of torture committed against persons with disabilities often went unreported and she urged the Committee to raise the issue of disability and ill-treatment in its constructive dialogue with States parties. She also stressed the importance of collecting more data on the number of persons with intellectual and psychosocial disabilities held in involuntary detention and the

number of persons with disabilities subjected to forced treatment or sterilization. Lastly, she suggested that the Committee should formulate a general comment on disability which encouraged States parties to provide their reports in accessible formats so that all members of society could access the information.

32. **Ms. Milani** (Americans for Democracy and Human Rights in Bahrain (ADHRB)) said that her organization had taken steps to inform its field offices of the provisions of the Convention and the complaint procedure available to victims of torture or ill-treatment. She stressed the importance of providing videoconferencing facilities for local NGOs that were not able to attend Committee meetings in person.

33. **Ms. Benninger-Budel** (World Organization against Torture (OMCT)) said that her organization provided assistance upon request to local NGOs of African States parties that were due to appear before the Committee.

34. **Ms. Osman** (Alkarama Foundation) stressed the importance of devising an effective procedure to ensure that States parties reported on time in the light of the substantial additional resources required to update outdated lists of issues prior to reporting.

35. **Ms. Lardy** (Association for the Prevention of Torture (APT)) said that many national preventive mechanisms were unsure of how to contact the Committee. She therefore suggested that the Committee should publish reporting guidelines for national preventive mechanisms on its website.

36. **Ms. Jourdan** (Association of World Citizens (AWC)) said that the Committee should consider the issue of prison privatization and its impact on the number of cases of torture and ill-treatment. She suggested that the Committee should strengthen its cooperation with parliamentary committees and national preventive mechanisms in order to increase awareness of its work at the national level.

37. **The Chairperson** thanked the NGO representatives for their informative and constructive comments and said that cooperation and collaboration between the Committee and civil society organizations would continue on a regular basis.

The public part of the meeting rose at 11.45 a.m.

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Committee against Torture
Fifty-fourth session

Summary record of the 1299th meeting
Held at the Palais Wilson, Geneva, on Friday, 24 April 2015, at 3 p.m.

Chairperson: Mr. Grossman

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Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Second periodic report of Romania (continued)

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Second periodic report of Romania (continued) (CAT/C/ROU/2; CAT/C/ROM/Q/2)

1. *At the invitation of the Chairperson, the delegation of Romania took places at the Committee table.*

2. **Ms. Turtoi** (Romania), replying to questions about arrangements for the national preventive mechanism (CAT/C/SR.1296), said that, pursuant to amendments introduced through Emergency Ordinance No. 48/2014, the Ombudsman had been designated as the national preventive mechanism. A deputy Ombudsman for torture prevention had been appointed in December 2014. It had the authority to conduct visits to places of detention, issue recommendations on their management, propose legislative amendments, provide input on existing laws, make policy suggestions, implement, monitor and assess relevant international technical and financial assistance programmes and conduct awareness-raising activities. As a distinct structure under the Ombudsman, the national preventive mechanism was independent, had a staff of 23 and had its own, sufficient budget. External experts were recruited to complement the expertise of permanent staff at both the central and territorial levels, on the recommendation of their professional associations. Representatives of seven non-governmental organizations (NGOs) in the field of human rights, with which the national preventive mechanism had signed cooperation agreements, were also involved in torture prevention efforts. In addition to civil society, the national preventive mechanism liaised with the Subcommittee on Prevention of Torture, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Council of Europe Commissioner for Human Rights.

3. A competition had taken place in early 2015 to recruit legal advisers, and another was planned to fill doctor, psychologist and social worker posts. The selection panel was appointed by the professional associations. The mechanism had prepared an annual visit plan of the 1,900 facilities. A meeting had been held on 31 March 2015 between the Ombudsman, the government authorities that ran places of detention, professional associations and the seven NGOs. The Ombudsman had ordered investigations into detention conditions in prisons and remand centres, the results of which would appear in a report to the Government and both chambers of parliament. The first pilot visit had been conducted on 20 April 2015 at Rahova Penitentiary by a team of 16 representatives of the national preventive mechanism, professional associations and NGOs, including at least one doctor. Further pilot visits would take place in other types of facilities covered under the mechanism's mandate, namely psychiatric hospitals, remand centres, migrant detention centres, drug addiction facilities, homes for older persons and institutions for juvenile offenders.

4. Visits could take place either as part of the annual visit plan or in response to a complaint. The management of places of detention were required to provide members of the national preventive mechanism with unfettered access to their facility and any necessary documentation prior to, during or after the visit. The visiting team was authorized to meet privately with any person deprived of their liberty as well as anyone likely to have relevant information, and the personnel of the place of detention were permitted to be involved only at the team's request and only to ensure their protection via video monitoring. No one could be held liable for providing the team with information. A report was to be drawn up within 30 days of each visit and, where relevant, could include recommendations for the improvement of treatment and detention conditions. The institution concerned was then required to submit its comments within 30 days. Both the visit report and the reply were public information. An emergency preliminary report containing recommendations for

immediate action was to be prepared where torture or cruel, inhuman or degrading treatment constituting an imminent threat to the life or health of the victim was observed, which the institution concerned was required to implement within three days. The Ombudsman was required to promptly notify the courts of any evidence of an offence.

5. A special report was prepared in 2008 on the rules regarding the execution of sentences and the placement of juvenile offenders in rehabilitation centres, in which the Ombudsman had made a number of recommendations, especially in terms of nutrition and education. As a result, the Ministry of Justice had set up an expert group to draft a new bill on the execution of sentences.

6. **Mr. Rotundu** (Romania) said that, as at 31 December 2014, more than 58,000 children had been covered by the child protection system, of whom over 21,500 were in residential centres, including more than 7,200 children with disabilities, and over 36,600 had been in foster care. Of the over 1,150 public institutions, only 83 were residential. Some 4,000 children, including 180 with disabilities, were in accredited private institutions. Overhauling the child protection system had been the Government's main priority since reforms of that sector had begun in the mid-1990s. Some 300 residential institutions, most of which had catered to children with disabilities, had been shut down and emphasis had been placed on family reintegration, placement in foster care and the establishment of homes providing a family setting. The latest government strategy had set 2020 as the deadline for the closure of residential institutions and the deinstitutionalization of children without parental care. The placement of children under the age of 3 in institutions was explicitly prohibited by law.

7. The National Agency for the Protection of Children's Rights and Adoption was the body responsible for ensuring compliance with to the relevant legislation. Between April and December 2014, the Agency had conducted 31 monitoring missions in public and private institutions as well as foster homes. Some 11 cases of physical abuse had been observed; the offending adult had been removed and the police and prosecution service had been notified in every case. The delegation could not provide any data disaggregated by ethnicity because the Agency did not collect such information in order to ensure that children were treated equally.

8. Turning to other concerns raised at the previous meeting, he said that, under the law, placement in a psychiatric institution was decided by either a judge or a psychiatrist, while decisions were appealable and subject to judicial oversight. A special senate investigative commission had been set up to look into allegations that places of detention and airports in Romania had been used by foreign intelligence services to hold or transport terrorism suspects; no evidence of such activities had been found. The Government acknowledged that the Roma had suffered discrimination in the past, but a broad-ranging set of administrative measures was in the course of preparation to correct the situation. For example, a dedicated government agency had been established that was headed by a member of the Roma community and the police academy had an annual minority quota that included the Roma.

9. **Mr. Trandafir** (Romania) said that the duration of detention for migrants in an irregular situation had been changed in 2011 in keeping with Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals. Pursuant to the amendments, third-country nationals could only be held if they could not be expelled within 24 hours and if they posed a flight risk, hampered the return or removal process or were under an expulsion order. They could not be held for more than six months, except at the request of the General Inspectorate for Immigration. Such detention was not considered as punishment for being in an irregular situation; rather, the measure was taken when the return process was under way and did not preclude the possibility of release. The appeal of return

decisions had a suspensive effect, except in certain situations such as when the person had been declared undesirable by a court.

10. Since August 2013, over 500 individuals had been rescued from the Black Sea. Some had applied for protection upon rescue and had therefore been placed in open centres for asylum seekers. Those who had not done so had been placed in closed centres, but had then been transferred to an open facility after applying for asylum.

11. **Ms. Cojanu** (Romania) said that the definition of torture contained in the new Criminal Code fully complied with the Convention as well as a number of other international instruments. The penalties remained the same, except that life imprisonment had been removed in cases where torture resulted in death because that sentence was reserved for intentional offences. The situations addressed in the Convention were covered in articles 281 and 440 of the new Criminal Code. In addition, committing an offence with cruelty or by subjecting the victim to degrading treatment had been added as a general aggravating circumstance. The Convention, like all international human rights instruments, prevailed over national laws wherever the two conflicted.

12. Under the law, pretrial detention could be applied only during the criminal prosecution phase, for logistical and cost considerations, and could not exceed 180 days. Nevertheless, the new Code of Criminal Procedure encouraged the use of alternatives to pretrial detention. The new Code, which incorporated Directive 2012/13/EU of the European Parliament and of the Council on the right to information in criminal proceedings, stipulated that persons taken into custody must be immediately informed, in writing and in a language they understood, of the reason of their detention, their right to an attorney, their right to emergency medical attention, their right to lodge a complaint and the maximum duration of the custody. Detention could only be enforced after the person had been brought before a judge, in the presence of an attorney. Attorneys could communicate with their clients directly and confidentially. Detention orders were appealable.

13. A two-year project, funded by Norway, was under way to bring remand conditions into line with international instruments by providing additional human rights training to the police and by purchasing equipment to enhance existing infrastructure and recreational activities. In response to a recommendation made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Minister of Internal Affairs had approved a zero-tolerance stance towards any act of torture or inhuman or degrading treatment in May 2014.

14. Between 2009 and 2012, 126 requests for compensation had been made by victims of torture or their families, 54 of which had been granted. The maximum amount provided had been approximately 6,500 euros. Under the new Criminal Code, acts of torture committed during the communist regime could still be prosecuted if they were classified as crimes of genocide or murder. Data provided by the Institute for the Investigation of the Crimes of Communism in Romania and the National Institute for the Memory of the Romanian Exile showed, inter alia, that 13 such investigations were under way and 12 had been discontinued due to lack of evidence.

15. A new system to compile statistical data relevant to monitoring the implementation of the Convention at the national level, which included the introduction of new indicators, was currently being tested by the Ministry of Justice and information would be provided in due course. Since by definition cases of flagrante delicto were discovered during the commission of the act or immediately thereafter, the presence of a lawyer could not be ensured during body or vehicle searches conducted in the immediate aftermath of a person's arrest for an offence of that kind.

16. Pretrial detention in the State party was considered a measure of last resort and could be ordered in cases where, among other things, the individual was deemed to pose a

threat to public order, or was suspected of having committed bodily harm or murder, trafficking in persons, terrorism, rape, corruption, or any other offence that carried a sentence of not less than 5 years' imprisonment. It could only be ordered by a judge and was subject to a time limit and to periodical review. Detainees had the right to appeal and to compensation for unlawful detention.

17. In accordance with the Criminal Procedure Code, police misconduct was subject to criminal investigation by a prosecutor. Certain investigative activities could nevertheless be carried out by the criminal investigative bodies of the judicial police. In addition, certain special criminal investigative bodies were empowered to conduct investigations into certain offences committed by members of the military or the merchant marine. Under the Criminal Procedure Code, the relevant provision of which had been enacted in 2014, it was prohibited to use violence or coercion to obtain evidence, and confessions extracted under torture were not admitted in legal proceedings. Law No. 217 of 2003 covered various categories of domestic violence, and the victims of domestic violence were entitled to benefits such as housing allocations, counselling and legal advice.

18. The Superior Council of Magistracy was an independent authority, regulated by the Constitution, the members of which were accountable to judicial officials only. The procedure to revoke a member's position was governed by law and decisions of dismissal had to be proposed by the Chairperson, Vice-Chairperson, one third of the members, or at the request of a majority of the court or prosecutor's office represented by the member. Decisions of dismissal of the President or Vice-President had to be proposed by one third of the members. With regard to the removal from office of a representative of the Prosecutor's Office, decisions were made upon a majority vote by the prosecutors. Dismissals from office were executed within 15 days of securing the decision.

19. The State party would take into account the Committee's suggestion that it should recognize its competence, under article 22 of the Convention, to consider communications from individuals subject to its jurisdiction who claim to be victims of a violation of the Convention.

20. **Ms. Morar** (Romania) said that the budget allocation for prison infrastructure had increased by over 100 per cent compared with 2013. The refurbishment of prisons had been under way for three years and had already borne fruit. Prison capacity had been expanded through the construction of additional places in order to reduce overcrowding. Various prisons had been renovated to enhance living conditions; a juvenile section had been revamped, and a rehabilitation centre for women had been built, in accordance with standards. The action plan in that area focused on improving the administrative capacity of the National Administration of Penitentiaries for monitoring standards in prisons and observance of prisoners' rights, and increasing detainees' participation in productive activities. In addition, a budget had been earmarked for the pre-construction studies of two new penitentiary facilities.

21. As at April 2015, there was a total of over 29,000 persons detained, just over 1,500 of whom were women and approximately 320 minors. Separation between men and women, and minors from adults, was ensured in detention facilities and special programmes had been developed to meet the needs of women in detention. Under the new legislation the age of criminal responsibility was 14 years. A new educational centre was being opened for young persons in conflict with the law, which offered vocational training and other social reintegration activities, as well as a new detention centre with a focus on rehabilitation. Specialized staff, such as teachers, security personnel and psychologists, were employed in both centres and certain educational modules were mandatory with a view to ensuring the social reintegration of the young people concerned. Only two juvenile detention centres had been renovated and converted from their former status as penitentiary units, owing primarily to the fact that the current number of minors in conflict with the law could be

accommodated within those two. Lastly, the number of detainees for the period 2008–2013 had increased for various reasons, including the absence of any form of amnesty or collective pardons.

22. **Mr. Tugushi** (Country Rapporteur) asked whether visits without prior notification were conducted by the national preventive mechanism only within the framework of follow-up to complaints, and suggested that all visits to places of detention should be unannounced. He asked whether the budget for the Ombudsman, which constituted the national preventive mechanism, had increased since the previous year. He expressed deep concern at the very lengthy duration of pretrial detention in police facilities of suspects whose cases were under investigation, since the risk of ill-treatment of detainees in those circumstances was high. Pretrial detention could not be justified by the requirements of the investigative procedure or police administration, and must be stopped. He asked for data on prosecutions and disciplinary action taken against police officials for the ill-treatment of detainees. He also asked how many police officials had been prosecuted and penalized for acts of racism committed mainly against persons from the Roma community. The presence of special intervention unit officers in prisons for supervision purposes contravened standards concerning penitentiary facilities, as those units should be used only as a last resort and in exceptional circumstances. Further to reports of incidences of ill-treatment in those units, he asked what measures had been taken to end their inappropriate and extensive use.

23. He wondered whether the Government envisaged funding the NGOs which provided most of the compensation for victims of trafficking and establishing a shelter for adult victims in Bucharest. He asked what the results were of measures taken to prevent and combat trafficking in persons, whether the number had decreased and whether training was provided to public officials for the identification of victims of trafficking, which was currently performed primarily by NGOs. Further information would be appreciated on steps taken to improve reporting mechanisms, since there had been numerous complaints concerning the lack of an independent police complaints mechanism. The Ombudsman was not an adequate substitute for institutionally embedded complaints mechanisms.

24. Referrals to the Neuropsychiatric Centre for Recovery and Rehabilitation were issued by local administration and were not subject to judicial appeal since they were often omitted from patients' files. If that was the case, he would like to know whether there were plans to amend legislation ensuring safeguards for persons placed in that centre.

25. **Ms. Belmir** (Country Rapporteur) said that additional efforts were needed to raise awareness of the prohibition of torture, particularly during the early stages of detention. She would like further information concerning the delays in issuing court decisions and the shortage of judges, which resulted in the use of state magistrates in cases that should remain within the purview of the relevant court.

26. Despite action taken to reduce the abandonment and institutionalization of children, the Special Rapporteur on the sale of children, child prostitution and child pornography had reported that there were 5 million children without parental care in the State party, 2.2 million of whom were placed in institutions. She asked what measures were in place to provide care and reparation for child victims of trafficking, many of whom had been exposed to that danger following abandonment. Furthermore, she noted that persons in a vulnerable situation were entitled to legal aid and compensation under certain conditions, such holding Romanian nationality, residing legally in the country, conducting the legal proceedings in Romanian, and cooperating with the judicial authorities, and she doubted whether such as criteria covered all child victims of trafficking in the State party. She noted that proceedings related to crimes committed during the communist dictatorship were extremely protracted and victims were obliged to wait a long time to receive any form of reparation.

27. She expressed concern that children in conflict with the law could be heard in the absence of legal counsel. In addition, could the State party justify the requirement for a minor to produce a written statement in the absence of a lawyer prior to the interview, since the information gathered in the interview should form the basis of all statements? She would like further information regarding expropriations and evictions of members of the Roma community.

28. **Mr. Bruni** asked what the Government's official position was concerning the reports that had been released in the media and by the Council of Europe regarding the existence of several detention centres run by the Central Intelligence Agency in the State party and in Poland, known as "black sites".

29. **Mr. Gaye** said that there were certain fundamental safeguards that should be enjoyed by all persons deprived of their liberty. According to the report, defendants *in flagrante delicto* cases were denied the assistance of counsel. He wished to know whether such assistance was denied even when a case came to trial, so that the prosecution could basically determine the outcome of the proceedings.

30. **The Chairperson** emphasized the importance of ensuring that alleged offences were investigated by independent supervisory bodies. He asked how frequently complaints of ill-treatment against law enforcement officers or other public officials gave rise to counterclaims. He also wished to know whether the Convention was directly applicable in the domestic legal order, in other words whether victims of violations of the Convention could quote the relevant article before a judge and whether the judge could then base his or her decision on that complaint.

31. **Mr. Tugushi** said that the autopsy conducted on Gabriel Dumitrache had confirmed that he had been subjected to severe forms of ill-treatment. The Committee wished to be informed of the outcome of the legal proceedings currently being conducted against the police officers alleged to be responsible for the ill-treatment. He enquired about the availability of statistical data, disaggregated by ethnicity, concerning complaints of torture and ill-treatment, investigations and prosecutions, and criminal penalties or disciplinary measures imposed on law enforcement officers.

32. **Ms. Belmir** noted that pretrial detention centres were run by the Ministry of Internal Affairs, whereas they should, in her view, be run by the Ministry of Justice. She asked whether reliable action was taken to assess whether defendants were in full possession of their mental faculties before they were held responsible for criminal acts. She gathered that the medical staff responsible for conducting such examinations reported to the Ministry of Internal Affairs instead of the Ministry of Health.

33. **Ms. Morar** (Romania) said that since February 2014 all incidents in subordinated units of the Prison Inspection Directorate involving the use of means of restraint had been referred to the National Administration of Penitentiaries with the relevant documents and video images. The conclusions were transmitted to the prison units in order to remedy malfunctions and to promote best practices. Disciplinary action had been taken against staff who had acted illegally.

34. Prison intervention teams were familiar with the provisions of the Istanbul Protocol and trained to recognize signs of torture or ill-treatment. Prisoners underwent a confidential medical examination when they were admitted to prison and on a regular basis while serving their sentence. They were informed about available therapeutic programmes for drug users and programmes for the prevention of communicable diseases and sexually transmitted infections. Access to a doctor could not be restricted by prison staff and patients could also be treated in specialized units of the public health-care system.

35. Detainees suffering from psychiatric disorders were periodically examined by psychiatrists and the risk of suicide was monitored. They could be treated in public hospital units and they had access to the National Programme for Mental Health. Inmates who refused food were examined daily by the medical personal and emergency treatment was given to remedy metabolic deficiencies. Physicians who found that an inmate had been subjected to torture or ill-treatment were required to refer the matter to a Public Prosecutor. An inmate could also ask to be examined by a forensic physician or a doctor working outside the prison system. All findings were recorded in the inmate's medical file.

36. Since 2014 a total of 628 inmates had been referred by physicians for further examinations to units outside the penitentiary system. Only four such examinations had been requested by the inmates themselves. Act No. 254/2013 had removed the requirement for prison doctors to certify that inmates were capable of enduring solitary confinement.

37. The rise in the prison population had remained constant until the end of 2013, at which point the units run by the National Administration of Penitentiaries accommodated 33,434 inmates. By the end of 2014, that figure had declined to 30,156 inmates owing to the entry into force of new criminal legislation, which provided for alternative sanctions, custodial educational measures and a reduction in the length of sentences imposed for offences committed prior to 1 February 2014. There were 1,431 Roma inmates in the penitentiary system.

38. A national strategy to reduce violence in the penitentiary system had been launched in 2013. It included a programme for inmates who tended to engage in aggressive behaviour; a programme to reduce recidivism in cases of sexual abuse; a programme for inmates with a history of alcoholism, and a programme for inmates with mental disorders.

39. **Mr. Rotundu** (Romania) said that the Council of Europe report on secret detentions and illegal transfers of detainees had been adopted by the Committee on Legal Affairs and Human Rights in 2007. It was not an intergovernmental document. The Romanian authorities maintained their position that there was no proof of the existence of secret detention sites in the country. A Senate Commission had conducted investigations from 2005 to 2008 and had published its report in 2008.

40. The right of victims of the former regime to compensation had been recognized in March 1990. Difficulties had been encountered by the authorities, however, when they sought to prosecute persons who had aided and abetted the regime. Any individual whose rights had been violated by an administrative authority could bring a lawsuit against those responsible. Discrimination on various grounds, including membership of a minority group, was prosecutable under Romanian law. Unlawful expropriation did not exist for any population group.

41. **Ms. Turtoi** (Romania) said that the budget of the National Preventive Mechanism was roughly €4.5 million. The total budget of the Ombudsman was €1.3 million for 133 employees. The right of prison inmates to lodge complaints and to receive announced or unannounced visits from the Ombudsman was legally recognized.

42. **Ms. Morar** (Romania) said that while a large number of inmates filed complaints, many of those were unjustified. Complaints of torture or other forms of ill-treatment accounted for a very small proportion of the roughly 1,000 complaints filed annually. Nine cases of physical assault by prison staff had been recorded since 2014. A new institution involving judicial supervision of deprivation of liberty had been established under legislation enacted in 2013.

43. **Ms. Cojanu** (Romania) said that the right to a lawyer was guaranteed throughout criminal proceedings. The exception provided for in article 92 of the Code of Criminal Procedure referred only to the presence of counsel when special investigation or

surveillance techniques were being used or when a body or vehicle search was being conducted in cases of *flagrante delicto*.

44. The Statute of Judges and Prosecutors provided for disciplinary liability when judges failed to respect rules regarding the resolution of issues within a reasonable time. It was a matter of concern for both the Ministry of Justice and the Superior Council of Magistracy. An institutional dialogue was being conducted to safeguard the independence of the judiciary and to identify the best legislative solutions to the problem. The revocation of two judges in 2013 had not been based on a conflict of interest but on a request from the general assemblies that had elected them.

45. When a victim filed a complaint with investigative bodies, he or she could describe the act concerned as a violation of an article of the Convention. The ultimate responsibility for characterization of the complaint lay with the judiciary. Article 28 of the Criminal Code provided for absence of criminal responsibility where accused persons were not in full possession of their mental faculties.

46. According to statistics of the General Prosecutor's Office for 2014, 84 complaints of ill-treatment and 116 complaints of torture had been filed against law enforcement officers. Forty-four of the complaints of ill-treatment and 80 of the complaints of torture had been resolved. However, none of them had given rise to an indictment. Law enforcement officers could be prosecuted for racism but no data were yet available because the indicators were still being tested.

The meeting rose at 6 p.m.